http://www.access.gpo.gov/nara/index.html

Program Authority: 20 U.S.C. 1098a.

(Catalog of Federal Domestic Assistance Number does not apply)

Richard W. Riley,

Secretary of Education.

[FR Doc. 99-33951 Filed 12-29-99; 8:45 am]

BILLING CODE 4000-01-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-6515-9]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (EPA) proposes to delete the Monticello Radioactive Contaminated Properties Site (Site), located in Monticello, Utah, from the National Priorities List (NPL). The NPL is the National Oil and Hazardous Substances Pollution and Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA). This action is being taken because EPA, with the preliminary concurrence of the State of Utah Department of Environmental Quality (UDEQ), has determined that responsible parties have implemented all appropriate response actions required and that no further response at the Site is appropriate.

A detailed rationale for this Proposal to Delete is set forth in the direct final rule which can be found in the Rules and Regulations section of this **Federal Register**. The direct final rule is being published because EPA views this deletion action as a noncontroversial revision and anticipates no significant adverse or critical comments. If no significant adverse or critical comments are received, no further activity is contemplated. If EPA receives significant adverse or critical comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Comments concerning this action must be received by EPA by January 31, 2000.

ADDRESSES: Comments may be mailed to: Mr. Jerry Cross (8EPR-F), Remedial Project Manager, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202-2466, telephone (303) 312-6664.

Information repositories: Comprehensive information on the Site is available for viewing and copying at the Site information repositories at the following locations: U.S. Department of Energy Grand Junction Project Office Public Reading Room, 2597 B$^{3}/_{4}$ Road, Grand Junction, Colorado 81503, (970) 248-6344; Monticello City Offices, 17 North First East Street, Monticello, Utah 84535, (435) 587-2271.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Cross (8EPR-F), Remedial Project Manager, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202-2466, telephone (303) 312-6664; Mr. Joel Berwick, Project Manager, U.S. Department of Energy, 2597 B$^{3}/_{4}$ Road, Grand Junction, Colorado, 81503, (970) 248-6020; Mr. David Bird, Project Manager, State of Utah Department of Environmental Quality, 168 North 1950 West, Salt Lake City, Utah, 84116, (801) 536-4219.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules and Regulations section of this **Federal Register**.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: December 15, 1999.

William P. Yellowtail,

Regional Administrator, Region 8.

[FR Doc. 99-33524 Filed 12-29-99; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99-2759; MM Docket No. 99-353; RM-9787]

Radio Broadcasting Services; Mojave, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Linda A. Davidson requesting the allotment of Channel 241A to Mojave, California, as that community's second local FM transmission service. As Mojave is located within 320 kilometers (199 miles) of the U.S.-Mexico border, concurrence of the Mexican government to the requested allotment of Channel 241A at that community must be obtained. Coordinates used for this proposal are 35-06-11 NL; 118-10-22 WL.

DATES: Comments must be filed on or before January 31, 2000, and reply comments on or before February 15, 2000.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Linda A. Davidson, 2134 Oak St., Unit C, Santa Monica, CA 90405.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99-353, adopted December 1, 1999, and released December 10, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY-A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99-33891 Filed 12-29-99; 8:45 am]

BILLING CODE 6712-01-P

of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian Tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian Tribal governments. Further, this rule does not impose substantial direct compliance costs on Tribal governments. This rule makes available an additional testing procedure which would be used when testing is otherwise required by a regulatory agency to demonstrate compliance with permit limits for cyanide. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

List of Subjects in 40 CFR Part 136

Environmental protection, Analytical methods, Incorporation by reference, Monitoring, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: December 20, 1999.

Carol M. Browner,

Administrator.

In consideration of the preceding, EPA amends 40 CFR part 136 as follows:

PART 136—GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS

1. The authority citation of 40 CFR part 136 continues to read as follows:

Authority: Secs. 301, 304(h), 307, and 501(a) Pub. L. 95-217, 91 Stat. 1566, *et seq.* (33 U.S.C. 1251, *et seq.*) (The Federal Water Pollution Control Act Amendments of 1972 as amended by the Clean Water Act of 1977).

2. Section 136.3 is amended in paragraph (a), Table IB.—List of Approved Inorganic Test Procedures, by revising entry 24 and adding a new footnote 44 and by adding a new paragraph (b)(43) to read as follows:

§ 136.3 Identification of test procedures.

(a) * * *

TABLE IB.—LIST OF APPROVED INORGANIC TEST PROCEDURES

Parameter, units and method	Reference (method number or page)				
	EPA[1 35]	STD methods 18th ed.	ASTM	USGS[2]	Other
* * *	*	*	*	*	*
24. Available Cyanide, mg/L					
Cyanide amenable to chlorination (CATC), Manual distillation with $MgCl_2$ followed by titrimetry or spectrophotometry.	335.1	4500–CN G	D2036–91(B).		
Flow injection and ligand exchange, followed by amperometry.					[44] OIA–1677
* * *	*	*	*	*	*

[1] "Methods for Chemical Analysis of Water and Wastes," Environmental Protection Agency, Environmental Monitoring Systems Laboratory-Cincinnati (EMSL–CI), EPA–600/4–79–020, Revised March 1983 and 1979 where applicable.

[2] Fishman, M.J., *et al.*, "Methods for Analysis of Inorganic Substances in Water and Fluvial Sediments," U.S. Department of the Interior, Techniques of Water—Resource Investigations of the U.S. Geological Survey, Denver, CO, Revised 1989, unless otherwise stated.

* * * * * * *

[35] Precision and recovery statements for the atomic absorption direct aspiration and graphite furnace methods, and for the spectrophotometric SDDC method for arsenic are provided in Appendix D of this part titled, "Precision and Recovery Statements for Methods for Measuring Metals."

* * * * * * *

[44] Available Cyanide, Method OIA–1677 (Available Cyanide by Flow Injection, Ligand Exchange, and Amperometry), ALPKEM, A Division of OI Analytical, P.O. Box 9010, College Station, TX 77842–9010.

(b) * * *

(43) Method OIA–1677, Available Cyanide by Flow Injection, Ligand Exchange, and Amperometry. August 1999. ALPKEM, OI Analytical, Box 648, Wilsonville, Oregon 97070 (EPA–821–R–99–013). Available from: National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. Publication No. PB99–132011. Cost: $22.50. Table IB, Note 44.

[FR Doc. 99–33627 Filed 12–29–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6516–1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (EPA), Region 8, announces the deletion of the Monticello Radioactive Contaminated Properties Site (Site), located in Monticello, Utah, from the National Priorities List (NPL). The NPL is the National Oil and Hazardous Substances Pollution and Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA). EPA, with the preliminary concurrence of the State of Utah Department of Environmental Quality (UDEQ), has determined that responsible parties have implemented all appropriate response actions required and that no further response at the Site is appropriate.

DATES: This direct final rule will be effective February 28, 2000, unless EPA receives significant adverse or critical comments by January 31, 2000. If significant adverse or critical comments are received, EPA will publish a timely withdrawal of the direct final rule in the

Federal Register informing the public that the Rule will not take effect.

ADDRESSES: Comments may be mailed to: Mr. Jerry Cross (8EPR-F), Remedial Project Manager, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202-2466, telephone (303) 312-6664.

Information repositories: Comprehensive information on the Site is available for viewing and copying at the Site information repositories at the following locations: U.S. Department of Energy Grand Junction Office Public Reading Room, 2597 B3/4 Road, Grand Junction, Colorado 81503, (970) 248-6344; Monticello City Offices, 17 North First East Street, Monticello, Utah 84535, (435) 587-2271.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Cross (8EPR-F), Remedial Project Manager, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202-2466, (303) 312-6664; Mr. Joel Berwick, Project Manager, U.S. Department of Energy, 2597 B3/4 Road, Grand Junction, Colorado, 81503, (970) 248-6020; Mr. David Bird, Project Manager, State of Utah Department of Environmental Quality, 168 North 1950 West, Salt Lake City, Utah, 84116, (801) 536-4219.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The United States environmental Protection Agency (EPA), Region 8, announces the deletion of the releases from the Monticello Radioactive Contaminated Properties Site (Site), located in Monticello, Utah, from the National Priorities List (NPL), appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300. EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As stated in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for further remedial actions financed by the Hazardous Substances Superfund (Fund), should future conditions at a site warrant such action.

EPA will accept comments concerning this action for 30 days after publication of this document in the **Federal Register**. If no significant adverse or critical comments are received, the Site will be deleted from the NPL effective February 28, 2000. However, if significant adverse or critical comments are received within the 30 day comment period, EPA will publish a notice of withdrawal of this direct final rule within 60 days of publication of this direct final rule. All public comments received will be addressed in a subsequent final rule, if appropriate, based on the Proposal to Delete located in the proposed rules section of this **Federal Register**. If, after consideration of the public comments, EPA proceeds with a subsequent final rulemaking, a second public comment period will not be instituted. Any parties interested in commenting should do so at this time.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures EPA is using for this action. Section IV discusses the Site and how the Site meets the deletion criteria. Section V states EPA's action to delete the Site from the NPL.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from or recategorized on the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA must consider, in consultation with the state in which the release was located, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if a release is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site that has been deleted from the NPL, the site will be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to the deletion of the Site:

(1) All appropriate response under CERCLA has been implemented and no further action by EPA is appropriate;

(2) EPA provided the State of Utah at least 30 working days for review of this Direct Final Rule prior to its publication in the **Federal Register**.

(3) Concurrent with publication of this direct final rule, a notice of availability of this action is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state, and local officials and other interested parties. The notice of availability announces the 30-day public comment period concerning the deletion.

(4) EPA has placed copies of information supporting the deletion in the information repositories which are available for public inspection and copying.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist EPA management.

EPA Region 8 will accept and evaluate public comments on this direct final rule before making a final decision. If necessary, EPA will prepare a responsiveness summary to address any significant public comments received. If no significant adverse or critical comments are received during the comment period, the Site will be deleted from the NPL effective February 28, 2000.

IV. Basis For Site Deletion

The following information provides the EPA's rationale for deleting this Site from the NPL:

A. Site Background and History

The Site, which is also commonly referred to as the Monticello Vicinity Properties Site, is located in the City of Monticello, San Juan County, Utah, approximately 65 miles south of Moab, Utah. The Site consists of private and commercial properties covering approximately nine square miles in and around the City of Monticello. Four hundred and twenty-four (424) properties, divided into Operable Units (OUs) A through H, are included in the Site. The properties are used for residential, commercial, and agricultural purposes. Montezuma Creek, a largely seasonal stream, traverses several properties on the south end of the Site before it flows east

through the former Monticello Millsite and eventually terminates in the San Juan River.

The source of the contamination that has been remediated at the Site was the original Monticello Millsite. The Millsite was constructed with government funding by the Vanadium Corporation of America (VCA) in 1941 to provide vanadium, a steel hardener, for the Manhattan Engineer District during World War II. The VCA operated the Millsite until early 1944 and again from 1945 through 1946, producing vanadium, as well as a waste uranium-vanadium sludge. Vanadium is found in the same ore with uranium and radium and, as a result, the processed wastes contain significant uranic radioactivity. In 1948, the U.S. Atomic Energy Commission (AEC) purchased the Site. Uranium and vanadium milling operations began again in 1949 under the auspices of the AEC. Vanadium milling operations ceased in 1955. Uranium milling continued until 1960 when the Millsite was permanently closed.

Four tailings piles, the result of the ore milling process, were left at the Millsite following the cessation of milling operations. Contaminated dust from the Millsite tailings piles was wind deposited throughout the City of Monticello and surrounding areas, and tailings from the Millsite were used as construction material and backfill on properties in and around the City. The main contaminants of concern include radium-226 and associated radon gas. The contaminants posed potential threats to human health and the environment resulting from exposure to radiation emanating from soils contaminated with uranium mill tailings and from radon gas inhalation.

B. Remedial Investigation and Feasibility Study Activities

The United States Department of Energy (DOE) initiated cleanup activities at the Site in 1984 pursuant to the DOE Surplus Facilities Management Program. In conjunction with this effort, and prior to the Site being added to the NPL, DOE commenced property investigations and completed remedial actions on some of the properties at the Site. EPA proposed the Site for placement on the NPL on October 15, 1984, and thereafter added it to the NPL on June 10, 1986. After the Site was added to the NPL, DOE, pursuant to section 120 of CERCLA, 42 U.S.C. 9620, entered into a Federal Facilities Agreement (FFA) with EPA and UDEQ. The FFA became effective on or about February 1989. Among other things, the FFA required that DOE perform a Remedial Investigation /Feasibility Study (RI/FS) or functional equivalent at the Site. After reviewing information submitted by DOE documenting the efforts it had already performed at the Site, EPA and UDEQ concluded that DOE had in fact performed the functional equivalent of an RI/FS at the Site. The Monticello Vicinity Properties Equivalency of Documentation was approved on May 24, 1984.

DOE is the Responsible Party and the lead agency for remediation at the Site, and provides principal staff and resources to plan and implement response actions. Responsibility for oversight of activities performed by DOE under the FFA were shared by EPA and UDEQ. EPA is the lead regulatory agency with ultimate responsibility and authority, but shares its decision making with UDEQ.

C. Record of Decision

A Record of Decision (ROD) for the Site was issued by EPA on November 29, 1989. The ROD identified the following routes of exposure to humans:

- Inhalation of radon-222 and daughter products that result from the continuous decay of radium-226. The greatest hazard to human health results from the inhalation of radon-222 daughters which emit alpha radiation that affects the lungs.
- External whole-body gamma exposure directly from radionuclides in the mill tailings.
- Inhalation and ingestion of windblown mill-tailings dust.
- Ingestion of groundwater and surface water contaminated with radioactive elements, primarily radium-226.
- Ingestion of food potentially contaminated through uptake and concentration of radioactive elements through plants and animals.

Details of the health risks are found in the Monticello Vicinity Properties Equivalency of Documentation, specifically within the *Environmental Evaluation on Proposed Cleanup Activities at Vicinity Properties Near the Inactive Uranium Millsite, Monticello, Utah, Appendix B*, August 1985. The evaluation determined the potential ingestion pathways of food, groundwater, and surface water to be insignificant exposure routes. The ROD identified exposure in the lungs to radon and radon daughters, and exposure to external gamma radiation as presenting imminent and substantial endangerment to public health and the environment.

The selected remedy for cleanup of the Site was the removal of residual radioactive contaminants, restoration with clean materials, and the modification of existing structures to isolate radon sources from inhabitants. Cleanup activities required excavation and, in some cases, demolition of sidewalks, sheds, patios, and other improvements. All affected structures and other improvements were reconstructed or the owner was compensated based on the current value of the structure or other improvement.

D. Characterization of Risk

Property Completion Reports (PCR) were prepared for each remediated property in the Site. Each PCR included the legal description of the property, the name and address of the owner, remediation activities performed, and a summary of the assessment results and verification surveys. As documented in the PCRs, all properties at the Site were either (1) remediated to the standards set forth in 40 CFR part 192, subpart B and DOE guidelines for Residual Radioactive Material at Formerly Utilized Sites Remedial Action Program (FUSRAP Guidance); or (2) remediated, based on a site specific risk assessment, to the Supplemental Standards provided for in 40 CFR 192.22. If Supplemental Standards were applied to a property, appropriate institutional controls in the form of land use restrictions were also instituted. Compliance with the clean-up standards are documented in each of the individual PCRs. EPA and UDEQ have approved all 424 PCRs for the Site covering Operable Units A through H. Supplemental Standards were applied to one privately-owned parcel, four parcels associated with the Highway 191 embankment owned by the Utah Department of Transportation, to City Streets/Utilities, and the Highway 191 and Highway 666 rights-of-way. Compliance with the institutional controls required for these properties will be monitored under the DOE Long-Term Surveillance and Maintenance Plan (LTSM) and the 5-year reviews required under CERCLA and the FFA. The remedial actions taken at the Site have reduced the environmental risk for approximately 2,200 people within an eight-mile radius of the City of Monticello, Utah.

E. Remedial Action Activities

EPA standards for Remedial Action at Inactive Uranium Processing Sites (40 CFR part 192) and DOE FUSRAP Guidance are Applicable or Relevant and Appropriate Requirements (ARARs) for the selected remedy. Remedial activities conducted at the Site include:

- Excavation and disposal of all contaminated soil and construction materials exceeding the standards in 40

CFR part 192, subpart B (except where Supplemental Standards were applied). Contaminated material from the properties was disposed of in a repository constructed approximately one mile south of the former Monticello Millsite, a separate NPL Site. The repository contains a double HDPE liner with a leak detection system, meeting the functional equivalency of a Resource Conservation and Recovery Act, Subtitle C facility. The repository cover will be 8.5 feet thick, including a radon barrier.

- After removal of contaminated material and before backfilling, verification surveys were performed in order to demonstrate compliance with the 40 CFR part 192, subpart B Standards. For the Supplemental Standards properties, contamination was removed to risk-based clean-up levels corresponding with future land use scenarios.
- Placement of backfill and reconstruction to a physical condition comparable to that which existed before remedial action activities, and
- Post-construction monitoring of radon levels, where applicable, to verify conformance to 40 CFR part 192 standards.

Supplemental Standards were selected for contaminated materials located on one privately-owned parcel, four parcels associated with the Highway 191 embankment owned by the Utah Department of Transportation, on City Streets/Utilities, and the Highway 191 and Highway 666 rights-of-way. Supplemental Standards were applied because:

- The remedial action would have caused excessive environmental harm when compared to health benefits, and/or
- Because the cost of remedial action at the Site would have been unreasonably high relative to long-term benefits for contamination that does not pose a clear present or future hazard.

On July 1, 1999, EPA approved, with UDEQ concurrence, DOE's applications for Supplemental Standards per 40 CFR part 192.

F. Pre-Final Inspection Activities

DOE's independent verification contractor (IVC) for Site remediation activities was Oak Ridge National Laboratory (ORNL) in Grand Junction, Colorado. ORNL provided 100 percent Type A verification (document review) of the U.S. Department of Energy Grand Junction Office (DOE-GJO) Remedial Action Contractor (RAC) remediation activities, and 10 percent Type B verifications, which included verification of field surveys and measurements, physical sampling, and laboratory analyses. EPA and UDEQ also conducted independent verification surveys on at least 10 percent of the properties.

Compliance with the clean-up standards are documented in each of the individual PCRs generated for the 424 Site properties. EPA and UDEQ have approved all of the PCRs for the Site. Remedial Action Reports (RARs) have been prepared for OUs A through H. All RARs have been accepted by EPA and UDEQ.

G. Long-Term Surveillance and Maintenance

OU H contains five properties which were approved for Supplemental Standards. One is a privately-owned parcel with pinon/juniper woodlands and four are associated with the Highway 191 embankment owned by the Utah Department of Transportation. Additionally, Supplemental Standards were applied to streets and utilities in the City of Monticello rights-of-way and Highways 191 and 666 rights-of-way. The City streets and utilities and the highway rights-of-way have not been included in OU's A through H, but are located within the City of Monticello and therefore, are considered part of the Site. The remediation of OU H was completed on December 10, 1998. The remediation consisted of removal of contaminated material to risk-based clean-up levels corresponding with intended future land-use scenarios. Since remediation of the OU H properties was based on Supplemental Standards that are not as protective as the 40 CFR part 192, subpart B standards that were applied to the rest of the Site properties, all OU H properties will be subject to DOE's LTSM and 5-Year Reviews required by section 121(c) of CERCLA, 42 U.S.C. 9621(c), and the FFA. The next CERCLA 5-Year Review report for these Supplemental Standards properties will be completed during February 2002, which is 5 years after the initial CERCLA 5-Year Review completed on February 13, 1997.

H. Close Out Report

The Close Out Report (COR) for the Site, completed September 2, 1999, detailed that all Site response actions were accomplished in accordance with CERCLA and consistent with the NCP. Following review of all PCRs, RARs and the COR, EPA and UDEQ agree that conditions at the Site do not pose any unacceptable risks to human health or the environment.

Based on the completion of the activities listed above, EPA and UDEQ conclude that the responsible party, DOE, has implemented all appropriate response actions required and that the Site should be deleted from the NPL.

I. Community Involvement

Public participation activities required by section 113(k) of CERCLA, 42 U.S.C. 9613(k), and section 117 of CERCLA, 42 U.S.C. 9617, have been satisfied. Documents which EPA relied on for Site deletion from the NPL are available to the public in the information repositories.

V. Action

EPA, with the concurrence of the State of Utah, has determined that the Site poses no significant threat to human health or the environment, that all appropriate responses under CERCLA at the Site have been completed, and that no further response actions, other than five-year reviews and maintaining institutional controls, are necessary. Therefore, EPA is deleting this Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking this action without prior proposal. This Direct Final Rule will become effective February 28, 2000, unless EPA receives significant adverse or critical comments by January 31, 2000. If significant adverse or critical comments are received, EPA will publish a timely withdrawal of this action in the **Federal Register** informing the public that the Rule will not take effect.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Natural resources, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: December 15, 1999.

William P. Yellowtail,

Regional Administrator, Region 8.

For the reasons set out in the preamble, 40 CFR Part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended under Utah ("UT") by removing the site name "Monticello

Radioactive Contaminated Prop." and the city/county "Monticello."

[FR Doc. 99-33523 Filed 12-29-99; 8:45 am]
BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 36 and 54

[CC Docket No. 96-45; FCC 99-396]

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document concerning the Federal-State Joint Board on Universal Service makes a procedural change to the new high-cost universal service support mechanism for non-rural carriers adopted in the High-Cost Methodology Order on October 21, 1999. The change concerns the targeting of high-cost support amounts to individual wire centers, which was set to occur beginning in the first quarter of 2000.

DATES: Effective December 30, 1999.

FOR FURTHER INFORMATION CONTACT: Jack Zinman, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418-7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Nineteenth Order on Reconsideration in CC Docket No. 96-45 released on December 17, 1999. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 Twelfth Street, SW, Washington, DC 20554.

I. Introduction

1. In this Order, the Commission on its own motion makes a procedural change to the new high-cost universal service support mechanism for non-rural carriers adopted in the *High-Cost Methodology Order*, 64 FR 67416 (December 1, 1999), on October 21, 1999, and scheduled to become effective on January 1, 2000. The change concerns the *targeting* of high-cost support amounts to individual wire centers, which was set to occur beginning in the first quarter of 2000. Because non-rural carriers will be filing wire center line count data for the first time on December 30, 1999, the Commission will not have a sufficient opportunity to review and verify that data to enable targeting during the first and second quarters of 2000. We therefore find that support payments targeted to the wire center level shall be issued beginning with payments provided in the third quarter of 2000. This change affects only the *targeting* of support during the first and second quarters of 2000, and does not alter the January 1, 2000 effective date of the new mechanism or the aggregate *amount* of support provided to each non-rural carrier under the new mechanism.

II. Discussion

2. We conclude that support payments should be calculated using the targeting approaches previously adopted. We conclude, however, that the provision of forward-looking support should be deferred until the third quarter of 2000. Until targeted support is provided in the third quarter of 2000, interim hold-harmless support shall be provided at the study-area level. Because non-rural carriers will be formally submitting wire center line count data for the first time on December 30, 1999, we do not believe that there will be sufficient time to analyze and verify the data before carriers are scheduled to receive targeted interim hold-harmless support in the first quarter of 2000 and targeted forward-looking support in the second quarter of 2000. Our decision to postpone the targeting of support will allow us to work with carriers and USAC to address any anomalies in carriers' first-time filings and to ensure that the wire center line count data are valid and sufficiently accurate for targeting purposes. We emphasize, however, that this decision does not change the January 1, 2000 effective date of the new mechanism or the aggregate amount of high-cost support provided to non-rural carriers under the new mechanism.

3. We therefore reconsider and amend on our own motion §§ 54.313(c) and 54.311(b) of our rules, as set forth. Specifically, we delete § 54.313(c)(1)(i) of our rules, thereby eliminating the January 1, 2000 state certification option, which would have permitted any carrier in a state that filed a certification by that date to receive targeted forward-looking support for the first and second quarters of 2000 in the second quarter of 2000. The elimination of this filing option, however, does *not* eliminate a carrier's ability to obtain forward-looking support for the first and second quarters of 2000. Under the rules adopted in the *High-Cost Methodology Order*, if a state files the requisite certification by April 1, 2000, carriers subject to that certification shall receive forward-looking support for the first and third quarters of 2000 in the third quarter of 2000, and forward-looking support for the second and fourth quarters of 2000 in the fourth quarter of 2000. We also amend § 54.311(b) of our rules, so that for the first and second quarters of 2000, non-rural carriers eligible for interim-hold harmless support shall receive such support at the study-area level, rather than the wire center level. Targeting of interim hold-harmless support shall occur at the wire center level beginning in the third quarter of 2000.

4. We also correct an oversight in the rules that we adopted in the *High-Cost Methodology Order* concerning the calculation of the expense adjustments for non-rural carriers. In that order, we amended § 36.631(d) of our rules so that the expense adjustment for study areas reporting more than 200,000 working loops would be calculated pursuant to the new forward-looking support mechanism or the interim hold-harmless provision, whichever is applicable, effective January 1, 2000. We inadvertently did not make a similar amendment to § 36.631(c) of our rules, which concerns study areas reporting 200,000 or fewer working loops, even though a small number of non-rural carriers serve such study areas. To remedy this oversight, we now amend § 36.631(c) so that the expense adjustment for non-rural carriers serving study areas reporting 200,000 or fewer working loops will be calculated pursuant to the new forward-looking support mechanism or the interim hold-harmless provision, whichever is applicable, effective January 1, 2000.

III. Procedural Matters

A. Regulatory Flexibility Act Certification

5. The Regulatory Flexibility Act (RFA) requires an Initial Regulatory Flexibility Analysis (IRFA) whenever an agency publishes a notice of proposed rulemaking, and a Final Regulatory Flexibility Analysis (FRFA) whenever an agency subsequently promulgates a final rule, unless the agency certifies that the proposed or final rule will not have "a significant economic impact on a substantial number of small entities," and includes the factual basis for such certification. The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field

i.e., NVOCCs and ocean carriers handling the importer's/consignee's shipments. CBP agrees that the statute is designed to protect the identities of importers and consignees (and their shippers if desired) for reasons that are related to their own competitive well being, not for reasons related to the competitive well being of the NVOCCs and ocean carriers filing manifest information in accordance with the "24-hour rule."

Thus, upon review of the comments and further review of the matter, CBP recognizes that allowing these other parties to file confidentiality requests for their importer and consignee clients will not further the intent of the law's confidentiality provision to protect the interests of the importers/consignees, but will instead serve the interests of these other parties at the expense of users of manifest information whose interest this law is also intended to serve. Importers and consignees *already* enjoy the benefits of this law through the current regulation, which allows confidentiality requests to be made by their authorized employees, attorneys, or officials.

Moreover, CBP is further persuaded by several of the other comments opposing the proposed amendment and submits that the weight of these other comments, taken together, provides additional support for a decision to abandon the NPRM. Primary among these other reasons against adoption of the proposal are that the proposal, if adopted, would cause some degree of harm to certain elements of the trade community without producing a beneficial impact on the law's beneficiaries or achieving a result mandated by law; the proposal would create an unacceptable operational burden on CBP; and it would create additional operational burdens on all involved parties, including the importers and consignees who may request confidentiality under the current regulation without preparing a power of attorney or authorization letter. Also, the proposed amendment raised a number of significant questions, as made clear by the comments for and against, and as discovered by CBP during its further review of the matter, indicating that amending the process as proposed is more complicated and problematic than initially contemplated. This recommends to an additional extent abandonment of the project.

In summary, it is clear that there is no consensus among members of the trade community on the value of adopting the proposed regulation and that the greater weight of the comments is persuasively against adoption. Also, the proposed regulation, if adopted, would have presented a considerable challenge to administrative efficiency for both CBP and importers and consignees.

Dated: August 7, 2003.

Robert C. Bonner,

Commissioner, Customs and Border Protection.

[FR Doc. 03–20567 Filed 8–12–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–209377–89]

RIN 1545–BA69

At-Risk Limitations; Interest Other Than That of a Creditor; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains a correction to a notice of proposed rulemaking relating to the treatment, for purposes of the at-risk limitations, of amounts borrowed from a person who has an interest in an activity other than that of a creditor or from a person related to a person (other than the borrower) with such an interest.

FOR FURTHER INFORMATION CONTACT: Tara P. Volungis (202) 622–3080 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations that are the subject of this correction are under section 465 of the Internal Revenue Code.

Need for Correction

As published, the proposed regulations REG–209377–89, contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the proposed regulations REG–209377–89, which is the subject of FR Doc. 03–17090, is corrected as follows:

1. On page 40583, column 3, in the preamble, under the paragraph heading **FOR FURTHER INFORMATION CONTACT** paragraph 1, lines 4 and 5, the language "requests for a public hearing, [Insert Name], 202–622–7180 (not toll-free" is corrected to read "requests for a public hearing, Sonya Cruse, 202–622–4693 (not toll-free".

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 03–20666 Filed 8–12–03; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7542–8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to partially delete the Monticello Mill Tailings (USDOE) Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 8 is issuing a notice of intent to partially delete the Monticello Mill Tailings (USDOE) Superfund Site (the Site) located in Monticello, Utah, from the National Priorities List (NPL) and requests public comments on this notice of intent. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at appendix B of 40 CFR part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA has determined that all appropriate response actions under CERCLA, other than operation and maintenance and five-year reviews, have been completed. However, this partial deletion does not preclude future actions under Superfund. The State of Utah, through the Utah Department of Environmental Quality (UDEQ), concurs with the decision for partial deletion of the Site from the NPL provided that no adverse comments are received during the public comment period.

In the "Rules and Regulations" section of today's **Federal Register**, we are publishing a direct final notice of partial deletion of the Site without prior notice of intent to partially delete because we view this as a noncontroversial revision and anticipate no adverse comments. We have explained our reasons for this partial deletion in the preamble to the direct final partial deletion. If we receive no adverse comments on this notice of intent to partially delete or the direct

final notice of partial deletion, we will not take further action on this notice of intent to partially delete. If we receive adverse comments, we will withdraw the direct final notice of partial deletion and it will not take effect. In such case, we will, as appropriate, address all public comments in a subsequent final partial deletion notice based on this notice of intent to partially delete. We will not institute a second comment period on this notice of intent to partially delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of partial deletion which is located in the "Rules and Regulations" section of this **Federal Register**.

DATES: Comments concerning this Site must be received by September 12, 2003.

ADDRESSES: Written comments should be addressed to: Mr. Paul Mushovic (8EPR–F), Remedial Project Manager, U.S. EPA Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, *mushovic.paul@epa.gov*, (303) 312–6662 or 1–800–227–8917.

FOR FURTHER INFORMATION CONTACT: For information regarding Site deletion, contact Mr. Paul Mushovic (8EPR–F), Remedial Project Manager, U.S. EPA Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, *mushovic.paul@epa.gov*, (303) 312–6662 or 1–800–227–8917. For other general Site information, contact Mr. Art Kleinrath, Program Manager, U.S. Department of Energy (DOE), 2597 B ¾ Road, Grand Junction, Colorado 81503, *art.kleinrath@gjo.doe.gov*, (970) 248–6037, or Mr. David Bird, Project Manager, State of Utah Department of Environmental Quality, 168 North 1950 West, Salt Lake City, Utah 84116, (801) 536–4219.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Partial Deletion which is located in the "Rules and Regulations" section of this **Federal Register**.

Information Repositories: Repositories have been established to provide detailed information concerning this decision at the following addresses: U.S. DOE Grand Junction Office Public Reading Room, 2597 B ¾ Road, Grand Junction, Colorado 81503, (970) 248–6089, Monday through Friday 7:30 a.m. to 4 p.m.; U.S. DOE Repository Site Office, 7031 South Highway 191, Monticello, Utah 84535, (435) 587–2098, Monday through Friday 8 a.m. to 5 p.m., or by appointment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: July 31, 2003.

Robert E. Roberts,

Regional Administrator, U.S. EPA Region 8.

[FR Doc. 03–20431 Filed 8–12–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1152

[STB Ex Parte No. 647]

Class Exemption for Expedited Abandonment Procedure for Class II and Class III Railroads

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Surface Transportation Board (Board) has received a proposal to create a class exemption under 49 U.S.C. 10502 for Class II and Class III railroads from the prior approval abandonment requirements of 49 U.S.C. 10903. The Board intends to consider this proposal, and any other matters that interested persons may raise regarding the abandonment process generally, at an oral hearing to be held in the fall of this year. The Board is not seeking public comment at this time but will issue a subsequent notice setting forth the details for filing comments and participating in the Board's hearing.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: On May 15, 2003, sixty-five regional and short-line carriers [1] (petitioners) filed a petition before the Board to use its exemption authority under 49 U.S.C. 10502. Petitioners ask the Board to adopt a new class exemption for use by small carriers in abandoning rail lines. Petitioners claim that the proposal would eliminate current regulatory incentives for small carriers to delay abandonment while letting the traffic base and physical condition of low-density lines deteriorate; subject exit and entry to the rail industry to market forces; and increase the dissemination of commercial information to facilitate the offer of financial assistance (OFA) procedures. In addition, petitioners claim that the proposal would reduce the administrative burdens on the Board.

The proposal would allow small carriers to file a notice of exemption whenever they make the business decision that a given line was no longer economically viable. Petitioners argue that their proposal would eliminate delays in the abandonment process and allow small carriers to quickly redeploy limited assets. This, petitioners maintain, would facilitate maintenance and infrastructure upgrades necessary for small carriers to continue in operation.

The proposed notices of exemption would include 36-months of traffic and revenue information, a description of the current physical condition of the line, an estimate of rehabilitation, the

[1] The sixty-five carriers are: Allegheny & Eastern Railroad, Inc.; Bradford Industrial Rail, Inc.; Buffalo & Pittsburgh Railroad, Inc.; Carolina Coastal Railway, Inc.; Commonwealth Railway, Inc.; Chicago SouthShore & South Bend Railroad; Chattahoochee & Gulf Railroad Co., Inc.; Connecuh Valley Railroad Co., Inc.; Corpus Christi Terminal Railroad, Inc.; The Dansville & Mount Morris Railroad Company; Eastern Idaho Railroad, Inc.; Genesee & Wyoming Railroad Company; Golden Isles Terminal Railroad, Inc.; H&S Railroad Co., Inc.; Illinois Indiana Development Company, LLC; Illinois & Midland Railroad Company, Inc.; Kansas & Oklahoma Railroad, Inc.; Knoxville & Holston River Railroad Co., Inc.; Lancaster and Chester Railway Company; Laurinburg & Southern Railroad Co., Inc.; Louisiana & Delta Railroad, Inc.; Louisville & Indiana Railroad Company; Minnesota Prairie Line, Inc.; Montana Rail Link, Inc.; New York & Atlantic Railway Company; Pacific Harbor Line, Inc.; Palouse River & Coulee City Railroad, Inc.; Pennsylvania Southwestern Railroad, Inc.; Piedmont & Atlantic Railroad Inc.; Pittsburgh & Shawmut Railroad, Inc.; Portland & Western Railroad, Inc.; Rochester & Southern Railroad, Inc.; Rocky Mount & Western Railroad Co., Inc.; St. Lawrence & Atlantic Railroad Company; Salt Lake City Southern Railroad Company; Savannah Port Terminal Railroad, Inc.; South Buffalo Railway Company; South Kansas & Oklahoma Railroad Company; Stillwater Central Railroad; Talleyrand Terminal Railroad, Inc.; Three Notch Railroad Co., Inc.; Timber Rock Railroad, Inc.; Twin Cities & Western Railroad Company; Utah Railway Company; Willamette & Pacific Railroad, Inc.; Wiregrass Central Railroad Company, Inc.; York Railway Company; AN Railway, LLC; Atlantic and Western Railway, Limited Partnership; Bay Line Railroad, LLC; Central Midland Railway; Copper Basin Railway, Inc.; East Tennessee Railway, L.P.; Galveston Railroad, L.P.; Georgia Central Railway, L.P.; The Indiana Rail Road Company; KWT Railway, Inc.; Little Rock & Western Railway, L.P.; M & B Railroad, L.L.C.; Tomahawk Railway, Limited Partnership; Valdosta Railway, L.P.; Western Kentucky Railway, LLC; Wheeling & Lake Erie Railway Company; Wilmington Terminal Railroad, L.P.; and Yolo Shortline Railroad Company.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7542–7]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final notice of partial deletion of the Monticello Mill Tailings (USDOE) Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA), Region 8, is publishing a direct final notice of partial deletion of the Monticello Mill Tailings (USDOE) Superfund Site (the Site), located in Monticello, Utah, from the National Priorities List (NPL).

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final notice of partial deletion is being published by EPA because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate. The State of Utah, through the Utah Department of Environmental Quality (UDEQ), concurs with the decision for partial deletion of the Site from the NPL provided that no adverse comments are received during the public comment period.

Partial deletion of an NPL site is provided for under the Partial Deletion Rule (November 1, 1995), which allows EPA to delete portions of NPL sites provided that deletion criteria are met. This partial deletion pertains to a portion of the Site designated as the Operable Unit (OU) II Non-Surface and Ground-Water Impacted Peripheral Properties, which are located within OU II of the Site. The OU II Non-Surface and Ground-Water Impacted Peripheral Properties are 22 of the 34 total properties that comprise OU II. These 22 properties were selected for deletion from the NPL because the primary contaminants of concern, radioactive materials in soils and sediment, have been removed to levels protective of human health and the environment, and because no radiological or nonradiological contamination is present in surface water or ground water located on these properties. The remainder of the Site, which includes OU I, the 12 other properties within OU II, and contaminated surface water and/or ground water located on OUs I and II (designated as OU III), will remain on the NPL. Radioactive materials in soils and sediment have been removed from OU I and the 12 other properties within OU II; however, radiological contamination and other nonradiological contaminants of concern, such as arsenic, selenium, and vanadium, persist in the surface water and/or ground water in these areas.

DATES: This direct final partial deletion will be effective October 14, 2003, unless EPA receives adverse comments by September 12, 2003. If adverse comments are received, EPA will publish a timely withdrawal of the direct final partial deletion in the **Federal Register** informing the public that the partial deletion will not take effect.

ADDRESSES: Comments may be mailed to: Mr. Paul Mushovic (8EPR–F), Remedial Project Manager, U.S. EPA Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, *mushovic.paul@epa.gov,* (303) 312–6662 or 1–800–227–8917.

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. Department of Energy-Grand Junction Office (DOE–GJO) Public Reading Room, 2597 B ¾ Road, Grand Junction, Colorado 81503, (970) 248–6089, Monday through Friday 7:30 a.m. to 4 p.m.; U.S. DOE Repository Site Office, 7031 South Highway 191, Monticello, Utah 84535, (435) 587–2098, Monday through Friday 8 a.m. to 5 p.m., or by appointment.

FOR FURTHER INFORMATION CONTACT: For information regarding Site deletion, contact Mr. Paul Mushovic (8EPR–F), Remedial Project Manager, U.S. EPA Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, *mushovic.paul@epa.gov,* (303) 312–6662 or 1–800–227–8917. For other general Site information, contact Mr. Art Kleinrath, Program Manager, U.S. DOE, 2597 B ¾ Road, Grand Junction, Colorado 81503, *art.kleinrath@gjo.doe.gov,* (970) 248–6037, or Mr. David Bird, Project Manager, State of Utah Department of Environmental Quality, 168 North 1950 West, Salt Lake City, Utah 84116, (801) 536–4219.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

EPA Region 8 is publishing this direct final notice of partial deletion of the Monticello Mill Tailings (USDOE) Superfund Site (the Site) from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in 40 CFR 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to partially delete. This action will be effective October 14, 2003 unless EPA receives adverse comments by September 12, 2003 on this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final partial deletion before its effective date and the partial deletion will not take effect. In such case, EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to partially delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting or partially deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Site and demonstrates how it meets the partial deletion criteria. Section V discusses EPA's action to partially delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. Section 300.425(e) of the NCP governs partial deletions of releases from the NPL in the same manner. In making a determination to delete or partially delete a release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

Section 300.425(e)(1)(i): Responsible parties or other persons have implemented all appropriate response actions required;

Section 300.425(e)(1)(ii): All appropriate Fund-financed (Hazardous

Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

Section 300.425(e)(1)(iii): The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is partially deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted portion of the site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release at a site partially deleted from the NPL, the deleted portion may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to the deletion of the OU II Non-Surface and Ground-Water Impacted Peripheral Properties portion of the Site from the NPL:

(1) The EPA consulted with the State of Utah (UDEQ) on the partial deletion of the Site from the NPL prior to developing this direct final notice of partial deletion.

(2) The State of Utah (UDEQ) concurred with partial deletion of the Site from the NPL provided that no adverse comments are received during the public comment period.

(3) Concurrently with the publication of this direct final notice of partial deletion, a notice of the availability of the parallel notice of intent to partially delete published today in the "Proposed Rules" section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state, and local government officials and other interested parties. The newspaper notice announces the 30-day public comment period concerning the notice of intent to partially delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the partial deletion in the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final partial deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to partially delete and the comments already received.

Deletion or partial deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion or partial deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions. Section 300.425(e)(3) of the NCP governs partial deletion of a site from the NPL in the same manner.

IV. Basis For Partial Site Deletion

The following information provides EPA's rationale for deletion of the OU II Non-Surface and Ground-Water Impacted Peripheral Properties portion of the Site from the NPL:

Site Location

The Site is located in and adjacent to (primarily southeast) the City of Monticello (City), San Juan County, Utah. The Site consists of 36 private and public properties covering approximately two square miles. The Site is divided into OU I (the former Millsite and repository south of the Millsite), OU II (properties near the former Millsite, referred to as peripheral properties, primarily contaminated with windblown tailings, and properties with contaminated sediment from Montezuma Creek), and OU III (surface water and/or ground water contamination). The partial deletion area of the Site, designated as the OU II Non-Surface and Ground-Water Impacted Peripheral Properties, covers approximately one square mile within OU II. The OU II Non-Surface and Ground-Water Impacted Peripheral Properties are 22 of the 34 total properties that comprise OU II. These 22 properties are primarily vacant land, with portions of some properties being used for agricultural purposes. The following table lists the 22 OU II Non-Surface and Ground-Water Impacted Peripheral Properties that comprise the partial deletion area.

MONTICELLO MILL TAILINGS (USDOE) SITE OU II NON-SURFACE AND GROUND-WATER IMPACTED PERIPHERAL PROPERTIES

Property DOE identification No.	Property location
MP–00105–VL ...	Parcel No. A33240316000 San Juan County Monticello, Utah
MP–00178–RS ..	Parcel No. A33240310008 San Juan County Monticello, Utah
MP–00180–CS ..	Parcel No. A33240313605 San Juan County Monticello, Utah
MP–00198–VL ...	Parcel No. A33240312409 San Juan County Monticello, Utah
MP–00211–VL ...	Parcel No. A33230367200 San Juan County Monticello, Utah
MP–00845–VL ...	Parcel No. A33240313604 San Juan County Monticello, Utah
MP–00886–VL ...	Parcel No. A33230369007 San Juan County Monticello, Utah
MP–00887–VL ...	Parcel No. A33230369000 San Juan County Monticello, Utah
MP–00888–VL ...	Parcel No. A33230369006 San Juan County Monticello, Utah
MP–00947–VL ...	Parcel No. 33S24E317201 San Juan County Monticello, Utah
MP–00948–VL ...	Parcel No. A33240310013 San Juan County Monticello, Utah
MP–00949–RS ..	Parcel No. A33240310014 San Juan County Monticello, Utah
MP–00950–VL ...	Parcel No. A33240310015 San Juan County Monticello, Utah
MP–00963–OT ..	Parcel No. A33240314200 San Juan County Monticello, Utah
MP–00964–VL ...	Parcel No. A33240312408 San Juan County Monticello, Utah
MP–00988–VL ...	Parcel No. 33S24E325400 San Juan County Monticello, Utah
MP–01040–VL (North Portion).	Parcel No. 34S24E061200 San Juan County Monticello, Utah
MP–01041–VL ...	Parcel No. 34S24E060600 San Juan County Monticello, Utah
MP–01042–VL ...	Parcel No. 34S24E060000 San Juan County Monticello, Utah
MP–01081–VL ...	Parcel No. 34S24E052400 San Juan County Monticello, Utah
MP–01083–MR ..	Parcel No. A33230317203 San Juan County Monticello, Utah
MP–01102–VL ...	Parcel No. A33240313610 San Juan County Monticello, Utah

A Locational Data Package that provides the latitudinal/longitudinal coordinates and a map of the Site and the OU II Non-Surface and Ground-Water Impacted Peripheral Properties is available to the public in the Site information repositories identified above.

Site History

The Monticello Millsite, located within OU I of the Site, was constructed with government funding in 1942 by the Vanadium Corporation of America (VCA) to provide vanadium, a steel hardener, during World War II. Vanadium was produced through the milling of uranium-bearing ore. The VCA operated the Millsite until early 1944 and again from 1945 through 1946, producing vanadium as well as a uranium-vanadium sludge for the Manhattan Engineer District. The U.S. Atomic Energy Commission (AEC) purchased the Millsite in 1948. Uranium and vanadium milling operations began again in 1949 under the auspices of the AEC. Vanadium milling operations ceased in 1955, with uranium milling continuing until 1960 when the Millsite was permanently closed. Four piles of tailings, the processing wastes remaining from uranium ore milling, were left at the Millsite following the cessation of milling operations. The total volume of tailings and soil mixed with tailings in these four piles was originally estimated to be approximately 1,570,000 cubic yards.

The tailings had significant radioactivity, especially from the presence of radium-226 (Ra-226), and contained certain potentially toxic, nonradioactive metals. Properties in and around the City became contaminated primarily by windblown tailings from these four piles. Tailings from the Millsite also were used as construction material and backfill on properties in and around the City. In addition, tailings were transported from the Millsite to downstream properties via Montezuma Creek. The Millsite and certain surrounding properties also became contaminated with residues from ore stockpiles and with by-product materials generated during Millsite operations. It was originally estimated that properties outside the boundary of the Millsite contained approximately 400,000 cubic yards of tailings-contaminated soils. Surface water and ground water on the Millsite and on certain properties outside the boundary of the Millsite became contaminated with radioactive materials and with toxic nonradioactive metals associated with tailings, such as arsenic, selenium, and vanadium.

In 1961, the four tailings piles were stabilized and covered with uncontaminated rock and dirt to minimize the spread of contamination. Millsite buildings and equipment also were dismantled, some of which were buried on the Millsite. In 1974–1975, additional contouring of the Millsite and demolition of the mill foundations were undertaken to reduce exposure levels. In 1980, the Monticello Millsite was accepted into the U.S. Department of Energy's Surplus Facilities Management Program (SFMP), which was established for caretaking and decommissioning of inactive government facilities that still had radiological contamination. Also in 1980, the U.S. Department of Energy-Grand Junction Office (DOE–GJO) established the Monticello Remedial Action Project (MRAP) to isolate tailings-related sources and thereby prevent them from causing harm to human health or the environment.

Two separate NPL sites were established in the Monticello area because of the spread of radioactive mill tailings. On June 10, 1986, the Monticello Vicinity Properties (MVPs), which eventually totalled 424 private and commercial properties in the City, were established as the first NPL site, designated as the Monticello Radioactive Contaminated Properties (51 FR 21054 (June 10, 1986)). Mill tailings removed from the Monticello Radioactive Contaminated Properties Site were stockpiled temporarily at the Millsite pending final disposal in the repository south of the Millsite. Once removal of tailings-related contamination in accordance with project cleanup standards was completed, the Monticello Radioactive Contaminated Properties Site was fully deleted from the NPL on February 28, 2000 (64 FR 73423 (December 30, 1999)).

The Monticello Mill Tailings (USDOE) Superfund Site (the Site) was the other NPL site established in the Monticello area. In December 1988, EPA, UDEQ, and DOE entered into a Federal Facility Agreement (FFA), pursuant to section 120 of CERCLA, 42 U.S.C. 9620, to facilitate remediation of the Site. The FFA established that the DOE was a responsible party (RP) and the lead agency for remediation at the Site. The DOE–GJO was tasked with providing principal staff and resources to plan and implement response actions at the Site. The EPA was identified as the lead regulatory agency with ultimate responsibility and authority for oversight of activities performed by DOE–GJO, but it was to share its decision making with UDEQ. In June 1989, prior to the Site being placed on the NPL, remedial action was initiated at the Site at one of the 22 OU II Non-Surface and Ground-Water Impacted Peripheral Properties. The EPA placed the Site on the NPL on November 21, 1989 (54 FR 48184 (November 21, 1989)). Removal of tailings-related contamination in accordance with project cleanup standards was completed at the last of the OU II Non-Surface and Ground-Water Impacted Peripheral Properties in January 2000. The EPA, UDEQ, and DOE–GJO agreed on March 28, 2000, that deletion of the Site from the NPL would be accomplished with partial deletions. Deletion of the OU II Non-Surface and Ground-Water Impacted Peripheral Properties from the NPL was deemed appropriate because radioactive materials in soils and sediment had been removed to levels protective of human health and the environment and because no radiological or nonradiological contamination was present in surface water or ground water located on these properties.

Remedial Investigation and Feasibility Study (RI/FS)

The RI/FS for the Site was completed in January 1990. The RI determined that Millsite operations had resulted in the spread of tailings-related contamination to the soil, surface water, ground water, and air. Most soils on the Millsite (OU I) were found to be contaminated with tailings and ore, some to a depth of 18 feet. Soils contaminated with tailings and ore were also identified on at least 200 acres of the peripheral properties (OU II) located adjacent to the Millsite. Tailings-contaminated sediments (OU II), transported off the Millsite by Montezuma Creek, were found approximately three miles down-gradient from the Millsite boundary. Radiological contamination was also detected in surface water (OU III) (Montezuma Creek) approximately three miles down-gradient from the Millsite boundary. Radiological contamination and other nonradiological contaminants of concern, such as molybdenum, selenium, and vanadium, were detected in ground water (OU III) beneath the Millsite and beneath properties located approximately 4,600 feet down-gradient from the Millsite boundary. Air at all locations sampled within the Millsite boundary was found to be contaminated with radon gas.

Besides characterizing the extent of contamination on the Site, analytical data collected for the RI were used to perform human health risk assessments.

These assessments addressed the health risks posed by both the radiological and nonradiological contaminants associated with tailings. The primary tailings-related radiological contaminants of concern were gamma radiation and radon gas. The highest risk tailings-related nonradiological contaminants of concern included arsenic, copper, lead, molybdenum, selenium, uranium, vanadium, and zinc.

The FS evaluated alternatives for remediation of the Site for each of OUs I, II, and III. The analytical data collected for the RI were used in the development and evaluation of these alternatives. The remedial alternatives evaluated for OUs I and II ranged from no action to removal of tailings contamination to a licensed off-site facility. The remedial alternatives evaluated for OU III ranged from no action to active ground and surface water collection, treatment, and discharge.

Record of Decision Findings

A Record of Decision (ROD) for the Site was signed by UDEQ and EPA on August 21 and 22, 1990, respectively. The ROD identified the selected remedy for remediation of OUs I and II. Because the selected remedy for remediation of OU III was dependent on the implementation of the selected remedy for OUs I and II and its effect on ground and surface water contamination, it was determined that a separate ROD would be issued for OU III at a later date. A ROD for an Interim Remedial Action at OU III was signed by EPA and UDEQ in September 1998. The interim selected remedy was to allow for passive treatment of contaminated ground water through natural flushing and to implement institutional controls that would limit access to ground water pending the collection of sufficient data to develop a final OU III ROD. Contamination in surface water was expected to diminish as a result of the removal of the source (tailings contamination) from OUs I and II and natural flushing of the ground water.

The selected remedy for remediation of OUs I and II of the Site, including the OU II Non-Surface and Ground-Water Impacted Peripheral Properties, was to remove radioactive materials to meet specific cleanup standards, modify existing structures to isolate radon sources from inhabitants, and restore with clean materials. Cleanup activities required excavation and, in some cases, demolition of structures and other property improvements. All affected structures and other improvements were reconstructed or the owner was compensated based on their current value. The selected remedy also allowed for the implementation of supplemental standards and institutional controls such that tailings contamination exceeding the cleanup standards was permitted to remain on certain properties where cleanup would cause excessive risk of injury to workers or the public, where cleanup would cause excessive environmental damage, and/or where cleanup costs would be excessive relative to the benefits. Excavated materials were disposed of in a repository that was built approximately one mile south of the Millsite.

The ROD stipulated numerous applicable or relevant and appropriate requirements (ARARs) to govern remedial actions on OUs I and II. The following ARARs, used for the remediation of the OU II Non-Surface and Ground-Water Impacted Peripheral Properties, established contaminant-specific limits for the cleanup of radiologically contaminated soils and sediments:

- 40 CFR part 192—Sets forth contaminant-specific numerical cleanup standards for Ra-226, radon decay products, and gamma radiation at 40 CFR 192.12. Criteria for using supplemental standards in lieu of the numerical cleanup standards set forth at 40 CFR 192.12 are provided at 40 CFR 192.21.
- DOE's Guidelines for Residual Radioactive Material at Formerly Utilized Sites Remedial Action Program and Remote Surplus Facilities Management Program Sites (FUSRAP/SFMP)—Provides additional guidelines for cleanup of radiological contamination that exceeds the numerical standards of 40 CFR 192.12 that is located in an area of a given size (DOE "hot spot" criteria).
- Resource Conservation and Recovery Act (RCRA)—Identified as a potential ARAR with regard to the management of any hazardous wastes encountered during remediation that were not governed by the cleanup standards set forth at 40 CFR part 192.
- DOE Order 5400.5 "Radiation Protection of the Public and Environment"—This was not an ARAR identified in the ROD but was implemented to guide the cleanup of uranium materials on property MP–00211–VL, one of the OU II Non-Surface and Ground-Water Impacted Peripheral Properties.
- EPA Region III Risk-Based Concentration Table (First Quarter 1995)—This was not an ARAR identified in the ROD but was implemented to guide the cleanup of certain nonradiological hazardous substances associated with uranium yellow cake, which was discovered during the remediation of property MP–00211–VL.
- State of Utah Underground Storage Tank Rules—This was not an ARAR identified in the ROD but was implemented to guide the excavation and disposal of underground storage tanks and associated wastes that were discovered during the remediation of certain Site properties.

The ROD stipulated that design components for the repository built south of the Millsite would be based on standards specified in 40 CFR 192.02, the Uranium Mill Tailings Radiation Control Act of 1978, the Uranium Mill Tailings Remedial Action (UMTRA) Program, and on standards that would enable the repository to meet the requirements for a RCRA Subtitle C hazardous waste disposal facility.

Characterization of Risk

The RI/FS identified gamma radiation and radon gas as the primary radiological contaminants of concern associated with uranium and vanadium mill tailings. Health risk assessments identified exposure to gamma radiation and inhalation of radon and radon daughters as the two most significant potential direct exposure pathways to these radiological contaminants. Gamma radiation emanates from tailings and delivers a radioactive dose to the entire body. Radon-222 and daughter products, which decay from Ra-226 contained in the tailings and migrate into the atmosphere, emit alpha radiation that affects the lungs when inhaled.

The RI/FS also identified the following eight elements as the highest tailings-related nonradiological contaminants of concern due to their potential chemical toxicity: arsenic, copper, lead, molybdenum, selenium, uranium, vanadium, and zinc (uranium was considered to be a higher risk due to chemical toxicity rather than radioactivity). The RI/FS health risk assessments determined that the two most significant potential exposure pathways to these nonradiological contaminants were ingestion of contaminated vegetables and ingestion of contaminated beef. These were considered to be indirect exposure pathways resulting from contaminated surface water being used to irrigate fields and water livestock, thereby introducing the nonradiological contaminants into the food chain. Direct exposures to the nonradiological contaminants through contact with contaminated soil, water, or air were determined to be negligible health risks.

Contact with contaminated water, the most significant potential direct exposure pathway, was considered to be a negligible health risk because contaminated surface and ground waters were not used as sources for drinking water.

Assessment of the various environmental media on the Site determined that certain contaminants of concern were within acceptable human health risk ranges and others were not. However, as established in the ROD, remediation of uranium mill tailings to meet specific cleanup standards was required on the Site regardless of risk assessment results. The numerical and supplemental cleanup standards set forth at 40 CFR part 192 for Ra-226, radon, and gamma radiation were the principal standards used to define acceptable health risk levels on the Site, including the OU II Non-Surface and Ground-Water Impacted Peripheral Properties. There were no human health risks associated with surface water or ground water located on the OU II Non-Surface and Ground-Water Impacted Peripheral Properties because these media were not contaminated on these properties.

All properties comprising the Site, including the OU II Non-Surface and Ground-Water Impacted Peripheral Properties, were individually evaluated to determine the presence of radiological contamination. After obtaining access permission from the property owner(s), a radiological inclusion survey was conducted by DOE–GJO or a DOE–GJO contractor to determine whether the property qualified for inclusion into the Site cleanup project. The property was excluded from the project and no further action was taken when radiological contamination exceeding project cleanup standards was not detected. When contamination exceeding project cleanup standards was detected, the property was included by DOE–GJO into the Site cleanup project.

The property owner(s) signed a Remedial Action Agreement (RAA), which granted access to the property for surveys and construction and defined any construction completion requirements or remuneration for dislocation or structure demolition. A DOE–GJO contractor performed a detailed radiological assessment survey of the property that was used as the basis for the Remedial Action Design (RAD) and cost estimate. When the presence of nonradiological hazardous substances was suspected, the property was surveyed to determine whether remediation of nonradiological hazardous substances was required. A RAD report was approved by DOE–GJO and concurred with by UDEQ. The RAD report presented the assessment survey results and the design for remedial action for the property.

Response Actions

Radioactive materials, primarily in the form of soil contaminated with uranium mill tailings and residues from ore stockpiles, were removed from the OU II Non-Surface and Ground-Water Impacted Peripheral Properties. Remedial activities consisted of the following:

- Excavation of contaminated material from the OU II Non-Surface and Ground-Water Impacted Peripheral Properties began in June 1989. All contaminated soil and construction materials exceeding the cleanup standards specified in 40 CFR 192.12, except where supplemental standards were implemented, were excavated and disposed by the DOE–GJO Remedial Action Contractor (RAC).
- After removal of contaminated material and before backfilling, verification surveys were performed by the DOE–GJO RAC to demonstrate compliance with the 40 CFR 192.12 cleanup standards. For the supplemental standards properties and property MP–00211–VL, verification surveys were performed to demonstrate compliance with property-specific cleanup levels corresponding with current land use scenarios. Verification surveys were completed on the OU II Non-Surface and Ground-Water Impacted Peripheral Properties by January 2000.
- Post-construction monitoring of radon levels was performed, where applicable, to verify compliance with 40 CFR 192.12 cleanup standards.
- Backfill was placed in excavated areas and properties were reconstructed to a physical condition comparable to that which existed before remedial activities.
- EPA, UDEQ, and DOE–GJO conducted numerous Site visits throughout the course of remedial activities, including at the OU II Non-Surface and Ground-Water Impacted Peripheral Properties, to observe assessment surveys, remedial action, verification sampling, and restoration.
- Contaminated material removed from the OU II Non-Surface and Ground-Water Impacted Peripheral Properties was disposed in a repository built approximately one mile south of the former Millsite. The repository, part of OU I of the Site, contains a double high density polyethylene (HDPE) liner with a leak detection system, thereby meeting the functional equivalence of a RCRA Subtitle C hazardous waste disposal facility. The repository cover is approximately 8.5 feet thick and includes a radon barrier.
- The DOE–GJO RAC prepared a Property Completion Report (PCR) for each of the remediated OU II Non-Surface and Ground-Water Impacted Peripheral Properties. The PCRs document the remedial activities performed for each property, including assessment results, verification surveys, and volumes and areas excavated. EPA and UDEQ approved all PCRs for the OU II Non-Surface and Ground-Water Impacted Peripheral Properties by March 5, 2001.
- Advanced Infrastructure Management Technologies (AIMTech) (formerly Oak Ridge National Laboratory (ORNL)), the DOE–GJO independent verification contractor (IVC), performed verification of field surveys and measurements, physical sampling, and laboratory analyses for 10 percent of the Site properties. AIMTech performed 100 percent reviews for DOE–GJO RAC documents that reported remedial activities for the OU II Non-Surface and Ground-Water Impacted Peripheral Properties.
- The DOE–GJO RAC prepared a Remedial Action Report (RAR) for the OU II Non-Surface and Ground-Water Impacted Peripheral Properties. The RAR summarizes the remedial actions completed on the properties, the performance standards used to direct the remedial actions, the cost of the remedial actions, and the operations required to preserve the effectiveness of the remedial actions. UDEQ and EPA approved the RAR on May 18, 2001, and June 4, 2001, respectively.

Cleanup Standards

Cleanup standards associated with radioactive materials in tailings-contaminated soils and sediment were the primary standards used to define acceptable health risk levels and to guide remediation efforts for the OU II Non-Surface and Ground-Water Impacted Peripheral Properties. No radiological or nonradiological contamination was identified in surface water or ground water located on these properties, therefore cleanup standards associated with these media were not applicable. Gamma radiation and radon gas were identified as the primary tailings-related radiological contaminants of concern. Reduction of gamma radiation and radon gas associated with uranium mill tailings was achieved through the cleanup of Ra-226. The principal source of radiological cleanup standards used for the

remediation of the OU II Non-Surface and Ground-Water Impacted Peripheral Properties, 40 CFR 192.12, specifies the following maximum allowable Ra-226 concentrations for land:

- 5 picocuries per gram (pCi/g) above background in the first 15 centimeters (cm) of soil, averaged over 100 square meters (m^2) (the background Ra-226 concentration for Monticello is approximately 1.0 pCi/g); and
- 15 pCi/g above background in any 15-cm interval more than 15 cm below the surface, averaged over 100 m^2.

40 CFR 192.12 specifies the following maximum allowable radon concentrations and gamma radiation levels for occupied or habitable structures:

- Radon decay-product concentrations (RDCs): less than 0.02 working level (WL) to the extent practicable, and shall not exceed 0.03 WL; and
- Gamma exposure rates: a maximum of 20 microroentgens per hour (μR/h) above background (the background gamma exposure rate for Monticello is approximately 15 μR/h).

In conjunction with the cleanup standards set forth at 40 CFR 192.12, the "hot spot" criteria specified in the DOE's Guidelines for Residual Radioactive Material at Formerly Utilized Sites Remedial Action Program and Remote Surplus Facilities Management Program Sites (FUSRAP/SFMP) were considered for cleanup standards. The DOE hot spot criteria specify the maximum radionuclide concentration allowable for a deposit of contamination of a given size that is still protective of human health and the environment.

Supplemental standards, as provided for in 40 CFR 192.21, were implemented in lieu of the 40 CFR 192.12 cleanup standards for the following OU II Non-Surface and Ground-Water Impacted Peripheral Properties. The supplemental standards were developed on a case-by-case basis and were based on health risk assessments. UDEQ and EPA approved the application for these supplemental standards on June 17, 1999, and July 1, 1999, respectively:

- Supplemental standards were implemented for radiologically contaminated material located in an environmentally sensitive piñon/juniper area on property MP–01041–VL. Supplemental standards were implemented on this property because remedial action would directly produce environmental harm that is clearly excessive compared to the health benefits (40 CFR 192.21(b)), and because the cost of remedial action would be unreasonably high relative to the long-term benefits and the residual radioactive materials do not pose a clear present or future hazard (40 CFR 192.21(c)). The supplemental standards permitted radiological contamination exceeding the 40 CFR 192.12 cleanup standards to remain in place. In conjunction with the supplemental standards, institutional controls were implemented that will limit future public exposure to any remaining radiological contamination. The institutional controls, recorded in the San Juan County Courthouse, restrict ownership to a public entity, require the owner to manage the property as publicly accessible open space, prohibit the construction of habitable structures, limit land use to day-use recreation, and prohibit the removal of soil from the property. Institutional controls also include fencing to direct traffic to defined entry and exit points and a requirement for DOE to conduct regular inspections to ensure the selected remedy remains protective of human health and the environment.
- Supplemental standards were implemented for radiologically contaminated material associated with city-owned street and utility rights-of-way. Radiological contamination associated with city-owned street and utility rights-of-way was confirmed on property MP–00180–CS, and may exist within city-owned street and utility rights-of-way located on other OU II Non-Surface and Ground-Water Impacted Peripheral Properties. Supplemental standards were implemented on city-owned street and utility rights-of-way because the cost of remedial action would be unreasonably high relative to the long-term benefits and the residual radioactive materials do not pose a clear present or future hazard (40 CFR 192.21(c)). The supplemental standards permitted radiological contamination exceeding the 40 CFR 192.12 cleanup standards to remain in place. In conjunction with the supplemental standards, institutional controls were implemented that will limit future public exposure to any remaining radiological contamination. The institutional controls, established through a Cooperative Agreement between DOE and the City, require that city owned street and utility rights-of-way remain open as public rights-of-way without any structures or encumbrances, define the responsibilities of DOE and the City with regard to excavating these areas and managing any radiological contamination that is encountered, and require DOE to conduct inspections to ensure the selected remedy remains protective of human health and the environment.

Property-specific cleanup standards for contaminants in addition to those addressed in 40 CFR 192.12 were established for one property, MP–00211–VL. Cleanup standards were established for thorium-230 (Th-230), uranium, and vanadium for the Phase I portion of MP–00211–VL because of the presence of uranium yellow cake. The maximum allowable Th-230, uranium, and vanadium concentrations for Phase I of MP–00211–VL were:

- Th-230: 15 pCi/g above background in any 15-cm interval of soil more than 15 cm below the surface, averaged over 100 m^2 (derived from the DOE FUSRAP/SFMP guidance);
- Total uranium: 6,100 milligrams per kilogram (mg/kg) (approximately 4,290 pCi/g) in any 15-cm-thick layer of soil, averaged over 100 m^2 (derived from the EPA Region III Risk-Based Concentration Table, Soil Ingestion, Industrial Setting (First Quarter 1995)); and
- Total vanadium: 14,000 mg/kg in any 15-cm-thick layer of soil, averaged over 100 m^2 (derived from the EPA Region III Risk-Based Concentration Table, Soil Ingestion, Industrial Setting (First Quarter 1995)).

Cleanup standards were established for uranium for the Phase II portion of MP–00211–VL because of the proximity of this area to the former mill processing plant. The maximum allowable uranium concentration for Phase II of MP–00211–VL was:

- Total uranium: 300 pCi/g in any 15-cm-thick layer of soil, averaged over 100 m^2 (developed to meet the general radiation protection standards specified in DOE Order 5400.5 "Radiation Protection of the Public and the Environment").

The cleanup standards for these additional contaminants for MP–00211–VL are appropriate for the current industrial/recreational land use of this property. In conjunction with these additional cleanup standards, institutional controls were implemented that will limit public exposure to any remaining contamination should the land use change to residential in the future. The institutional controls, implemented through a zoning restriction (City Ordinance No. 2003–2), prohibit the construction of habitable structures on the property unless certain conditions prescribed by the zoning restriction are met. These conditions include a requirement for DOE to survey the excavated foundation footprint of any habitable structure being constructed to check for the presence of uranium. The zoning restriction also

defines the responsibilities of DOE and the City should the noted contaminants be encountered on the property in the future.

Cleanup requirements specified in the Utah Administrative Code, Title R311, "Utah Underground Storage Tank Rules," were used for the remediation of a leaking diesel fuel underground storage tank (UST) and associated petroleum-contaminated soils encountered on Phase I of MP–00211–VL. The abandoned UST and petroleum-contaminated soils were disposed in the repository south of the Millsite. The petroleum contamination that remains at MP–00211–VL in association with these remediated materials is at levels that allow unlimited use or unrestricted exposure.

In summary, radioactive materials in tailings-contaminated soils and sediment and additional contaminants have been removed from the OU II Non-Surface and Ground-Water Impacted Peripheral Properties to meet the prescribed cleanup standards for the current land use. The attainment of these cleanup standards signifies that acceptable health risk levels have been achieved.

Operation and Maintenance

To ensure the long-term effectiveness of the selected remedy, the following OU II Non-Surface and Ground-Water Impacted Peripheral Properties where supplemental standards were implemented for radiological contamination left in place have been included in DOE's Long Term Surveillance and Maintenance (LTSM) Program: property MP–01041–VL and properties such as MP–00180–CS where radiological contamination remains in association with city-owned street and utility rights-of-way. The LTSM Program will monitor these properties to confirm that the supplemental standards and the previously described institutional controls are maintained to limit future public exposure to any remaining radiological contamination. In addition, the LTSM Program will monitor property MP–00211–VL to confirm that the appropriate zoning restriction conditions are maintained to limit exposure to any remaining contamination. Monitoring of property MP–00211–VL includes a procedure for surveying the excavated foundation footprint of any habitable structure being constructed for the presence of uranium. No other operation and maintenance is required on the OU II Non-Surface and Ground-Water Impacted Peripheral Properties to preserve the selected remedy.

Five-Year Review

Pursuant to CERCLA section 121(c), DOE must conduct statutory CERCLA Five-Year Reviews for the OU II Non-Surface and Ground-Water Impacted Peripheral Properties because contamination remains at certain properties above levels that allow unlimited use or unrestricted exposure. These are the previously cited property MP–00211–VL, supplemental standards property MP–01041–VL, and supplemental standards properties such as MP–00180–CS where radiological contamination remains in city-owned street and utility rights-of-way. These properties all have land use restrictions in place. CERCLA Five-Year Reviews ensure the selected remedy remains effective.

The first CERCLA Five-Year Review for the Site was completed on February 13, 1997. This CERCLA Five-Year Review, covering the period from 1991 through 1996 when remediation was ongoing at the Site, discussed the status of remedial actions and noted that the need for supplemental standards for certain properties on the Site, including the OU II Non-Surface and Ground-Water Impacted Peripheral Properties, was being negotiated with EPA and UDEQ. The most recent CERCLA Five-Year Review, completed in August 2002, evaluated the completion of remediation of radioactive materials in soils and sediment for OUs I and II, the completion and capping of the repository located south of the Millsite, transferral of the Millsite to the City, and restoration of the Millsite. The next CERCLA Five-Year Review for the Site is scheduled for June 2007.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion of the OU II Non-Surface and Ground-Water Impacted Peripheral Properties portion of the Site from the NPL are available to the public in the Site information repositories identified above.

V. Deletion Action

The EPA has determined that all appropriate responses under CERCLA have been completed, and that no further response actions under CERCLA, other than operation and maintenance and five-year reviews, are necessary. Therefore, EPA is deleting the OU II Non-Surface and Ground-Water Impacted Peripheral Properties portion of the Site from the NPL. The State of Utah (UDEQ) concurs with the decision to delete the OU II Non-Surface and Ground-Water Impacted Peripheral Properties portion of the Site from the NPL provided that no adverse comments are received during the public comment period.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective October 14, 2003, unless EPA receives adverse comments by September 12, 2003. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final partial deletion before its effective date and the partial deletion will not take effect. In such case, EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to partially delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: July 31, 2003.

Robert E. Roberts,

Regional Administrator, Region 8.

■ For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O.12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

■ 2. Table 2 of appendix B to part 300 is amended by revising the entry for "Monticello Mill Tailings (USDOE)," Monticello, UT to read as follows:

Appendix B to Part 300—National Priorities List

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TABLE 2.—FEDERAL FACILITIES SECTION

State	Site name	City/county	Notes [a]
*	* * * * * *		*
UT	Monticello Mill Tailings (USDOE)	Monticello	P
*	* * * * * *		*

[a] * * *
P = Site with partial deletion(s).

[FR Doc. 03–20430 Filed 8–12–03; 8:45 am]
BILLING CODE 6560–50–P